

DEPARTMENT OF FOOD AND AGRICULTURE

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April 11, 2007

STZ-07-008

TO: TO WHOM IT MAY CONCERN

The attached Table A replaces the version in STZ-07-06, issued on March 21, 2007. Due to a technical problem, some elements of the Table A in that version did not contain all of the information needed to utilize the Table in determining appropriate penalty amounts. The Table A in this letter is the same version filed with the Secretary of State and published by the Office of Administrative Law.

Sincerely,

Kevin Masuhara, Program Supervisor
Inspection and Compliance Branch
Inspection Services

KM/km

cc: N. Dechoretz
E. Williams
S. Patton

Attachment

1371.2. Administrative Civil Penalties for Food and Agriculture Violations

Table A

Section I – Provisions of Division 1 and of Division 17 Not Separately Specified

For a first violation, a fine of not more than \$500.

For a second or subsequent violation, a fine not less than \$100 or more than \$1,000

| <u>Code Section</u> | <u>Description of Violation</u> | <u>Minor Violation</u> | <u>Moderate or Subsequent Violation</u> | <u>Serious or Subsequent Violation</u> |
|-----------------------|---|---|---|--|
| | | <u>\$50 - \$150</u> | <u>\$151 - \$500</u> | <u>\$501 - \$1,000</u> |
| <u>1. FAC 861</u> | <u>Failure of seller to provide, buyer to obtain, or transporter to possess a record showing proof of ownership</u> | | <u>X</u> | |
| <u>2. FAC 862</u> | <u>Failure to make proof of ownership available for inspection; failure to include required information in the record</u> | | <u>X</u> | |
| <u>3. FAC 864</u> | <u>Falsification of any information in a record intended to show proof of ownership</u> | | <u>X</u> | |
| <u>4. FAC 865</u> | <u>Failure to retain a copy of the record for a period of 60 days after delivery</u> | <u>X</u> | | |
| <u>5. FAC 42792.1</u> | <u>Unlawful use of a county certification stamp or device</u> | | <u>X</u> | |
| <u>6. FAC 42884</u> | <u>Delivery of fruits, nuts or vegetables under disposal order to other than designated destination</u> | | <u>X</u> | |
| <u>7. FAC 42885</u> | <u>Disposal of fruits, nuts or vegetables under disposal order prior to release</u> | | <u>X</u> | |
| <u>8. FAC 42886</u> | <u>Disposal of fruits, nuts or vegetables under disposal order in a manner or for a purpose other than as ordered</u> | | <u>X</u> | |
| <u>9. FAC 42941</u> | <u>Failure of fruits, nuts or vegetables to conform to provisions of this division or regulations promulgated thereto</u> | <u>X</u> | | |
| <u>CCR 1359</u> | <u>Container labeling: no declaration of responsibility</u> | <u>*Second violation of same regulation</u> | <u>X</u> | |
| <u>10. FAC 42942</u> | <u>Deceptive pack, lot load or display of fresh or dried fruits, nuts or vegetables</u> | <u>X</u> | | |
| <u>11. FAC 42943</u> | <u>Mislabeling or misleading statement on container or label</u> | <u>X</u> | | |
| <u>12. FAC 42944</u> | <u>Deceptive or misleading statements in any manner</u> | <u>X</u> | | |
| <u>13. FAC 42946</u> | <u>Failure to pack the same numerical count in each layer</u> | <u>X</u> | | |

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|---------------|--|----------|----------|--|
| 14. FAC 42947 | <u>Failure to ensure that the contents of lower layers are of same kind, quality and proportion as top or exposed layers</u> | <u>X</u> | | |
| 15. FAC 42950 | <u>Failure of 90% to be free of insect injury, worms, mold or decay (specific standards not otherwise established)</u> | <u>X</u> | | |
| 16. FAC 43033 | <u>Removal of tag or notice from lot under abatement</u> | | <u>X</u> | |
| 17. FAC 43331 | <u>Use or disposal of fruits, nuts or vegetables under permit other than by the manner or for the purpose permitted</u> | | <u>X</u> | |
| 18. FAC 43332 | <u>Failure of permit to accompany fruits, nuts or vegetables transported under permit</u> | <u>X</u> | | |
| 19. FAC 43333 | <u>Selling or offering fruits, nuts or vegetables failing to meet standards to person requiring permit who has no permit</u> | <u>X</u> | | |

Section II – Provisions of Division 17 Separately Specified
For a first violation, a fine of not more than \$3,000

| <u>Code Section</u> | <u>Description of Violation</u> | <u>Moderate Violation</u> <u>\$250 - \$1,000</u> | <u>Serious or Subsequent Violation</u> <u>\$1,001 - \$3,000</u> |
|---------------------|--|---|--|
| 1. FAC 42945 | <u>Unlawful removal or disposal of fruits, nuts or vegetables with warning tag or notice attached or removal of tag or notice without written permission or under direction of enforcing officer</u> | <u>X</u> | |
| 2. FAC 42948 | <u>Refusal to submit fruits, nuts or vegetables to inspection of enforcing officer</u> | <u>X</u> | |
| 3. FAC 42949 | <u>Alteration of certificate of inspection, notice of violation, report, statement, or other document issued by an enforcing officer</u> | | <u>X</u> |
| 4. FAC 42951 | <u>Adulteration of any solution or chemical or alteration of any instrument or device provided to an enforcing officer for use in determining compliance with this division</u> | | <u>X</u> |

AVOCADOS

| | | | |
|-----------------|---|----------|--|
| 5. FAC 44971(b) | <u>Failure to certify avocados as complying with maturity and quality provisions established by regulation</u> | <u>X</u> | |
| 6. FAC 44972 | <u>Unlawful shipment or sale of any container of avocados which does not bear the official stamp required by law and regulation</u> | <u>X</u> | |
| 7. FAC 44974(c) | <u>Failure to comply with the inspection and certification requirements of FAC Chapter 9, Avocados</u> | <u>X</u> | |

| | | | |
|--------------|---|--|---|
| 8. FAC 44986 | Unlawful use of avocado container certification stamp; refusal to surrender certification stamp to director's authorized agent; counterfeit or alter or use any altered certification stamp | | X |
|--------------|---|--|---|

Section III – Provisions of Division 17 Separately Specified – Avocados Only

Avocados Worth \$500 or More

For a first violation involving avocados worth \$500 or more, or

For a second or subsequent violation, a fine not less than \$250 or more than \$5,000

| <u>Code Section</u> | <u>Description of Violation</u> | <u>Moderate Violation</u> \$250 - \$1,000 | <u>Serious or Subsequent Violation</u> \$1,001 - \$5,000 |
|---------------------|---|--|---|
| 1. FAC 44973 | Packing, handling or selling any lot of avocados not in compliance with maturity and quality standards established by regulation | X | |
| 2. FAC 44982 | Failure of avocado handler to prepare and retain for two years up-to-date records of daily transactions; failure to include required information in records | X | |
| 3. FAC 44983 | Falsification of record or information required to be kept pursuant to FAC 44982 | | X |
| 4. FAC 44984 | Failure to allow inspection of records required to be kept pursuant to FAC 44982 | | X |
| 5. FAC 45031 | Failure to possess a record of proof of ownership for avocados | X | |
| 6. FAC 45034 | Falsification of any information in a record intended to show proof of ownership for avocados | | X |
| 7. FAC 45035 | Failure to retain a copy of the proof of ownership record for avocados for one year after sale | X | |

Note: Authority cited: Sections 407 and 42681, Food and Agricultural Code.

Reference: Sections 401, 861, 862, 864, 865, 42792.1, 42884, 42885, 42886, 42941, 42942, 42943, 42944, 42945, 42946, 42947, 42948, 42949, 42950, 42951, 43033, 43331, 43332, 43333, 44971, 44972, 44973, 44974, 44982, 44983, 44984, 44986, 45031, 45034, and 45035, Food and Agricultural Code.